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FM AMEMBASSY NIAMEY
TO RUEHC/SECSTATE WASHDC 5548
INFO RUEHZK/ECOWAS COLLECTIVE

UNCLAS SECTION 01 OF 02 NIAMEY 001021

DEPT FOR AF/FO, AF/W, DRL/EA, AND AF/RSA

SIPDIS

E.O. 12958: N/A

TAGS: PHUM PGOV SOCI SCUL NG

SUBJECT: Response: Information on Human Rights Trends Pertaining to Sexual Orientation and Gender Identity

Ref: a) State 130765 b) Amb. Allen - A/S Carson E-Mail exchanges of 12/22/09

¶1. Summary: Niger is a conservative country both culturally and religiously, and homosexuality is not discussed publicly. There are no provisions in the 1993 Penal Code that make homosexuality illegal, and there are no advocacy groups regarding homosexuality. While there is tolerance of homosexuality, particularly by the younger generation in Niamey, Niger remains a largely rural nation where many deny that it even exists. End summary.

¶2. In response to Ref A, Embassy Niamey wishes to respond as follows, keyed to specific information requested:

¶A. Provisions of existing laws that might criminalize same-sex relationships and how such are applied:

The only existing laws in Niger that may pertain to homosexuality and/or gender identity are the following from the Penal Code of 1993:

-- Article 275 Public Indecency - Public indecency is any material act that affronts public decency committed under conditions that a third party likely to be offended by it has witnessed or may have witnessed.

-- Article 276 Public Indecency - Any person who commits public indecency will be punished by three months to three years of prison and a fine between 10,000 and 100,000 francs CFA.

-- Article 277 Indecent Assault - Any indecent act committed with impunity directly on a person of one or the other sex constitutes indecent assault.

-- Article 282 Lewd Act on Minor of the Same Sex - Whoever has committed a lewd act or an act against nature on a minor of the same sex under twenty-one years of age will be punished by imprisonment of three months to three years and levied a fine of 10,000 to 100,000 francs CFA.

¶B. Past or present debate, pro or con, on the issue of homosexuality:

Homosexuality is not debated, at least publicly, in Niger.

¶C. Resultant legislation pending, passed, or defeated:

No legislature is pending, and none was passed or defeated. Homosexuality is considered a taboo subject. So far, no individual cases have been reported that have led to a demand for legislation regarding homosexuality specifically.

¶D. Summary of public attitudes regarding sexual orientation and gender identity and levels of tolerance of homosexual behavior:

While most Nigeriens are conservative religiously and culturally, there is greater tolerance of homosexuality at present in Niamey than previously. Even so, many Nigeriens deny that homosexuality

exists in Niger. Gender roles are strongly rooted in tradition; however, men working in areas usually reserved for women is more common today than in years before.

IE. Specific differentiation among groups - such as youth vs. elders, churches vs. Islamic views, political parties, NGOs, etc.:

Niger is largely rural and conservative, both culturally and religiously. Younger, more urban society is more tolerant of homosexuality than others.

IF. Active advocacy campaigns by domestic religious groups or external actors:

There are no advocacy efforts underway to post's knowledge, either domestically or internationally.

IG. Advocacy campaigns by domestic cultural or other domestic interest groups, or news events that may have catalyzed debate:

There are no advocacy efforts underway to post's knowledge, either domestically or internationally, nor have news events catalyzed debate on the topic.

IH. Other domestic considerations, including prostitution, or sex tourism:

Although prostitution does exist in Niamey and other larger urban areas, sex tourism is not apparent.

II. Other domestic political factors, including electoral politics that may play a role or have influenced debate or legislation

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restricting the rights of homosexuals:

There are no political factors involved in influencing the rights of homosexuals.

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